

§ 1045.16

(5) Details of the critical steps or components in nuclear material production processes; and

(6) Features of military nuclear reactors, especially naval nuclear propulsion reactors, that are not common to or required for civilian power reactors.

§ 1045.16 Criteria for evaluation of restricted data and formerly restricted data information.

(a) The DOE Director of Declassification shall classify information as RD and the DOE Director of Security Affairs shall maintain the classification of RD (and FRD in coordination with the DoD) only if undue risk of damage to the common defense and security from its unauthorized disclosure can be identified and described.

(b) The DOE Director of Declassification shall not classify information and the DOE Director of Security Affairs shall declassify information if there is significant doubt about the need to classify the information.

(c) The DOE Directors of Declassification and Security Affairs shall consider the presumptions in §1045.15 (d) and (e) before applying the criteria in paragraph (d) of this section.

(d) In determining whether information should be classified or declassified, the DOE Directors of Declassification and Security Affairs shall consider the following:

(1) Whether the information is so widely known or readily apparent to knowledgeable observers that its classification would cast doubt on the credibility of the classification system;

(2) Whether publication of the information would assist in the development of countermeasures or otherwise jeopardize any U.S. weapon or weapon system;

(3) Whether the information would hinder U.S. nonproliferation efforts by significantly assisting potential adversaries to develop or improve a nuclear weapon capability, produce nuclear weapons materials, or make other military use of nuclear energy;

(4) Whether publication of the information would have a detrimental effect on U.S. foreign relations;

(5) Whether publication of the information would benefit the public welfare, taking into account the impor-

10 CFR Ch. X (1–1–06 Edition)

tance of the information to public discussion and education and potential contribution to economic growth; and, 6) Whether publication of the information would benefit the operation of any Government program by reducing operating costs or improving public acceptance.

§ 1045.17 Classification levels.

(a) *Restricted Data.* The DOE Director of Declassification shall assign one of the following classification levels to RD information to reflect the sensitivity of the information to the national security. The greater the damage expected from unauthorized disclosure, the higher the classification level assigned to the information.

(1) *Top Secret.* The DOE Director of Declassification shall classify RD information Top Secret if it is vital to the national security and if its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of RD information that warrant Top Secret classification include detailed technical descriptions of critical features of a nuclear explosive design that would enable a proliferant or nuclear power to build or substantially improve a nuclear weapon, information that would make possible the unauthorized use of a U.S. nuclear weapon, or information revealing catastrophic failure or operational vulnerability in a U.S. nuclear weapon.

(2) *Secret.* The DOE Director of Declassification shall classify RD information as Secret if its unauthorized disclosure could reasonably be expected to cause serious damage to the national security, but the RD information is not sufficiently comprehensive to warrant designation as Top Secret. Examples of RD information that warrant Secret classification include designs for specific weapon components (not revealing critical features), key features of uranium enrichment technologies, or specifications of weapon materials.

(3) *Confidential.* The DOE Director of Declassification shall classify RD information as Confidential if it is deemed to be of significant use to a potential adversary or nuclear proliferant and its unauthorized disclosure could